

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1379 be amended to read as follows:

- 1 Page 16, delete lines 28 through 42.
- 2 Delete page 17.
- 3 Page 23, between lines 38 and 39, begin a new paragraph and insert:
- 4 "SECTION 16. IC 22-4-10-1, AS AMENDED BY P.L.108-2006,
- 5 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 6 JULY 1, 2009]: Sec. 1. (a) Contributions shall accrue and become
- 7 payable from each employer for each calendar year in which it is
- 8 subject to this article with respect to wages paid during such calendar
- 9 year. Where the status of an employer is changed by cessation or
- 10 disposition of business or appointment of a receiver, trustees, trustee
- 11 in bankruptcy, or other fiduciary, contributions shall immediately
- 12 become due and payable on the basis of wages paid or payable by such
- 13 employer as of the date of the change of status. Such contributions shall
- 14 be paid to the department in such manner as the department may
- 15 prescribe, and shall not be deducted, in whole or in part, from the
- 16 remuneration of individuals in an employer's employ. When
- 17 contributions are determined in accordance with Schedule A as
- 18 provided in IC 22-4-11-3, the department may prescribe rules to require
- 19 an estimated advance payment of contributions in whole or in part, if
- 20 in the judgment of the department such advance payments will avoid
- 21 a debit balance in the fund during the calendar quarter to which the
- 22 advance payment applies. An adjustment shall be made following the
- 23 quarter in which an advance payment has been made to reflect the
- 24 difference between the estimated contribution and the contribution
- 25 actually payable. Advance payment of contributions shall not be
- 26 required for more than one (1) calendar quarter in any calendar year.
- 27 (b) Any employer which is, or becomes, subject to this article by
- 28 reason of IC 22-4-7-2(g) or IC 22-4-7-2(h) shall pay contributions as
- 29 provided under this article unless it elects to become liable for
- 30 "payments in lieu of contributions" (as defined in IC 22-4-2-32).

(c) Except as provided in subsection (e), the election to become liable for "payments in lieu of contributions" must be filed with the department on a form prescribed by the department not later than thirty-one (31) days following the date upon which such entity qualifies as an employer under this article, and shall be for a period of not less than two (2) calendar years.

(d) Any employer that makes an election in accordance with subsections (b) and (c) will continue to be liable for "payments in lieu of contributions" until it files with the department a written notice terminating its election. The notice filed by an employer to terminate its election must be filed not later than thirty (30) days prior to the beginning of the taxable year for which such termination shall first be effective.

(e) Any employer that qualifies to elect to become liable for "payments in lieu of contributions" and has been paying contributions under this article, may change to a reimbursable basis by filing with the department not later than thirty (30) days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

(f) Employers making "payments in lieu of contributions" under subsections (b) and (c) shall make reimbursement payments monthly. At the end of each calendar month the department shall bill each such employer (or group of employers) for an amount equal to the full amount of regular benefits plus ~~one-half (1/2)~~ of the amount of **extended part of benefits not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970** paid during such month that is attributable to services in the employ of such employers or group of employers. Governmental entities of this state and its political subdivisions electing to make "payments in lieu of contributions" shall be billed by the department at the end of each calendar month for an amount equal to the full amount of regular benefits plus the ~~full amount of extended part of~~ **extended part of benefits not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970** paid during the month that is attributable to service in the employ of the governmental entities.

(g) Payment of any bill rendered under subsection (f) shall be made not later than thirty (30) days after such bill was mailed to the last known address of the employer or was otherwise delivered to it, unless there has been an application for review and redetermination filed under subsection (i).

(h) Payments made by any employer under the provisions of subsections (f) through (j) shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the employer.

(i) The amount due specified in any bill from the department shall

be conclusive on the employer unless, not later than fifteen (15) days after the bill was mailed to its last known address or otherwise delivered to it, the employer files an application for redetermination. If the employer so files, the employer shall have an opportunity to be heard, and such hearing shall be conducted by a liability administrative law judge pursuant to IC 22-4-32-1 through IC 22-4-32-15. After the hearing, the liability administrative law judge shall immediately notify the employer in writing of the finding, and the bill, if any, so made shall be final, in the absence of judicial review proceedings, fifteen (15) days after such notice is issued.

(j) Past due payments of amounts in lieu of contributions shall be subject to the same interest and penalties that, pursuant to IC 22-4-29, apply to past due contributions.

(k) Two (2) or more employers that have elected to become liable for "payments in lieu of contributions" in accordance with subsections (b) and (c) may file a joint application with the department for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Such group account shall be established as provided in regulations prescribed by the commissioner."

Page 23, line 41, after "Sec. 3." insert **"(a) This subsection applies before January 1, 2010."**

Page 24, line 2, delete "IC 22-4-11-3.5,".

Page 24, between lines 3 and 4, begin a new paragraph and insert:

**"(b) This subsection applies after December 31, 2009. Except as provided in section 1(b) through 1(e) of this chapter, each employer shall pay contributions equal to eight and two-tenths percent (8.2%) of wages, except as otherwise provided in IC 22-4-11-2, IC 22-4-11-3.5, 22-4-11.5, and IC 22-4-37-3."**

Page 24, line 27, after "department" insert ":

**(1) may use amounts receive under this section to pay interest on the advances made to the state from the federal unemployment account in the federal unemployment trust fund under 42 U.S.C. 1321; and**

**(2)".**

Page 24, line 27, after "deposit" delete "the" and insert **"any"**.

Page 24, line 28, after "section" insert **"and not used for the purposes described in subdivision (1)".**

Page 24, between lines 32 and 33, begin a new paragraph and insert:

**"SECTION 19. IC 22-4-10-4.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4.6. (a) The unemployment insurance solvency fund is established for the purpose of paying interest on the advances made to the state from the federal unemployment account in the federal unemployment trust fund under 42 U.S.C. 1321. The fund shall be administered by the department.**

(b) Money received by the department from the unemployment insurance surcharge that the department elects to use for the purposes described in section 4.5(d)(1) of this chapter shall be deposited in the fund for the purposes of the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund."

Page 25, after line 42, begin a new paragraph and insert:

"SECTION 21. IC 22-4-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) For the purpose of charging employers' experience or reimbursable accounts with regular benefits paid subsequent to July 3, 1971, to any eligible individual but except as provided in IC 22-4-22 and subsection (f), such benefits paid shall be charged proportionately against the experience or reimbursable accounts of the individual's employers in the individual's base period (on the basis of total wage credits established in such base period) against whose accounts the maximum charges specified in this section shall not have been previously made. Such charges shall be made in the inverse chronological order in which the wage credits of such individuals were established. However, when an individual's claim has been computed for the purpose of determining the individual's regular benefit rights, maximum regular benefit amount, and the proportion of such maximum amount to be charged to the experience or reimbursable accounts of respective chargeable employers in the base period, the experience or reimbursable account of any employer charged with regular benefits paid shall not be credited or reccredited with any portion of such maximum amount because of any portion of such individual's wage credits remaining uncharged at the expiration of the individual's benefit period. The maximum so charged against the account of any employer shall not exceed twenty-eight percent (28%) of the total wage credits of such individual with each such employer with which wage credits were established during such individual's base period. Benefits paid under provisions of IC 22-4-22-3 in excess of the amount that the claimant would have been monetarily eligible for under other provisions of this article shall be paid from the fund and not charged to the experience account of any employer. This exception shall not apply to those employers electing to make payments in lieu of contributions who shall be charged for ~~at the full amount of regular benefit payments which~~ **and the part of benefits not reimbursed by the federal government under the Federal-State Extended Unemployment Compensation Act of 1970 that** are attributable to service in their employ. Irrespective of the twenty-eight percent (28%) maximum limitation provided for in this section, ~~any extended the part of benefits not~~

1 **reimbursed by the federal government under the Federal-State**  
 2 **Extended Unemployment Compensation Act of 1970** paid to an  
 3 eligible individual based on service with a governmental entity of this  
 4 state or its political subdivisions shall be charged to the experience or  
 5 reimbursable accounts of the employers, and ~~fifty percent (50%) of any~~  
 6 ~~extended the part of~~ **benefits not reimbursed by the federal**  
 7 **government under the Federal-State Extended Unemployment**  
 8 **Compensation Act of 1970** paid to an eligible individual shall be  
 9 charged to the experience or reimbursable accounts of the individual's  
 10 employers in the individual's base period, other than governmental  
 11 entities of this state or its political subdivisions, in the same proportion  
 12 and sequence as are provided in this section for regular benefits paid.  
 13 Additional benefits paid under IC 22-4-12-4(c) and benefits paid under  
 14 IC 22-4-15-1(c)(8) shall:

15 (1) be paid from the fund; and

16 (2) not be charged to the experience account or the reimbursable  
 17 account of any employer.

18 (b) If the aggregate of wages paid to an individual by two (2) or  
 19 more employers during the same calendar quarter exceeds the  
 20 maximum wage credits (as defined in IC 22-4-4-3) then the experience  
 21 or reimbursable account of each such employer shall be charged in the  
 22 ratio which the amount of wage credits from such employer bears to the  
 23 total amount of wage credits during the base period.

24 (c) When wage records show that an individual has been employed  
 25 by two (2) or more employers during the same calendar quarter of the  
 26 base period but do not indicate both that such employment was  
 27 consecutive and the order of sequence thereof, then and in such cases  
 28 it shall be deemed that the employer with whom the individual  
 29 established a plurality of wage credits in such calendar quarter is the  
 30 most recent employer in such quarter and its experience or  
 31 reimbursable account shall be first charged with benefits paid to such  
 32 individual. The experience or reimbursable account of the employer  
 33 with whom the next highest amount of wage credits were established  
 34 shall be charged secondly and the experience or reimbursable accounts  
 35 of other employers during such quarters, if any, shall likewise be  
 36 charged in order according to plurality of wage credits established by  
 37 such individual.

38 (d) Except as provided in subsection (f), if an individual:

39 (1) voluntarily leaves an employer without good cause in  
 40 connection with the work; or

41 (2) is discharged from an employer for just cause;

42 wage credits earned with the employer from whom the employee has  
 43 separated under these conditions shall be used to compute the  
 44 claimant's eligibility for benefits, but charges based on such wage  
 45 credits shall be paid from the fund and not charged to the experience  
 46 account of any employer. However, this exception shall not apply to  
 47 those employers who elect to make payments in lieu of contributions,

1 who shall be charged for all benefit payments which are attributable to  
2 service in their employ.

3 (e) Any nonprofit organization which elects to make payments in  
4 lieu of contributions into the unemployment compensation fund as  
5 provided in this article is not liable to make the payments with respect  
6 to the benefits paid to any individual whose base period wages include  
7 wages for previously uncovered services as defined in IC 22-4-4-4, nor  
8 is the experience account of any other employer liable for charges for  
9 benefits paid the individual to the extent that the unemployment  
10 compensation fund is reimbursed for these benefits pursuant to Section  
11 121 of P.L.94-566. Payments which otherwise would have been  
12 chargeable to the reimbursable or contributing employers shall be  
13 charged to the fund.

14 (f) If an individual:

15 (1) earns wages during the individual's base period through  
16 employment with two (2) or more employers concurrently;

17 (2) is separated from work by one (1) of the employers for reasons  
18 that would not result in disqualification under IC 22-4-15-1; and

19 (3) continues to work for one (1) or more of the other employers  
20 after the end of the base period and continues to work during the  
21 applicable benefit year on substantially the same basis as during  
22 the base period;

23 wage credits earned with the base period employers shall be used to  
24 compute the claimant's eligibility for benefits, but charges based on the  
25 wage credits from the employer who continues to employ the individual  
26 shall be charged to the experience or reimbursable account of the  
27 separating employer.

28 (g) Subsection (f) does not affect the eligibility of a claimant who  
29 otherwise qualifies for benefits nor the computation of benefits.

30 (h) Unemployment benefits paid shall not be charged to the  
31 experience account of a base period employer when the claimant's  
32 unemployment from the employer was a direct result of the  
33 condemnation of property by a municipal corporation (as defined in  
34 IC 36-1-2-10), the state, or the federal government, a fire, a flood, or an  
35 act of nature, when at least fifty percent (50%) of the employer's  
36 employees, including the claimant, became unemployed as a result.  
37 This exception does not apply when the unemployment was an  
38 intentional result of the employer or a person acting on behalf of the  
39 employer."

40 Page 32, line 20, delete "1.10" and insert "**0.95**".

41 Page 32, line 21, delete "1.40" and insert "**1.25**".

42 Page 32, line 22, delete "1.70" and insert "**1.55**".

43 Page 32, line 23, delete "2.00" and insert "**1.85**".

44 Page 32, line 24, delete "2.30" and insert "**2.15**".

45 Page 32, line 25, delete "2.60" and insert "**2.45**".

46 Page 32, line 26, delete "2.90" and insert "**2.75**".

47 Page 32, line 27, delete "3.20" and insert "**3.05**".

- 1 Page 32, line 28, delete "3.50" and insert **"3.35"**.
- 2 Page 32, line 29, delete "3.80" and insert **"3.65"**.
- 3 Page 32, line 30, delete "4.10" and insert **"3.95"**.
- 4 Page 32, line 31, delete "4.40" and insert **"4.25"**.
- 5 Page 32, line 32, delete "4.70" and insert **"4.55"**.
- 6 Page 32, line 33, delete "5.00" and insert **"4.85"**.
- 7 Page 32, line 34, delete "5.30" and insert **"5.15"**.
- 8 Page 55, line 1, after "wage." insert **"However, work is not**
- 9 **considered suitable under this section, if the work pays less than**
- 10 **Indiana's minimum wage as determined under IC 22-2-2."**
- 11 Page 76, delete lines 35 through 42, begin a new paragraph and
- 12 insert:
- 13 **"(c) In addition to the notice that the employer is required to**
- 14 **provide under the Act, an employer that is required to provide**
- 15 **notice under this chapter shall provide to the department the**
- 16 **following information for each affected employee:**
- 17 **(1) The affected employee's name.**
- 18 **(2) The affected employee's address.**
- 19 **(3) The affected employee's Social Security number.**
- 20 **(4) The affected employee's job title."**
- 21 Delete page 77.
- 22 Page 78, delete lines 1 through 3.
- 23 Page 78, line 4, delete "6." and insert **"5."**.
- 24 Page 78, line 10, delete "7." and insert **"6."**.
- 25 Page 78, line 16, after "(b)" delete "The" and insert **"In order to**
- 26 **provide employment, training, and other services to affected**
- 27 **employees, the"**.
- 28 Page 78, line 19, delete "occur in order to provide employment,
- 29 training," and insert **"occur, if the operator, board, or provider**
- 30 **agrees to maintain the confidentiality of the information:"**.
- 31 Page 78, delete line 20.
- 32 Page 78, between lines 25 and 26, begin a new paragraph and insert:
- 33 **"(c) An:**
- 34 **(1) officer or employee of the department; or**
- 35 **(2) officer or employee of any of the entities listed in**
- 36 **subsection (b);**

1     **who knowingly or intentionally discloses information that is**  
2     **confidential under this section commits a Class B misdemeanor."**

3         Renumber all SECTIONS consecutively.  
       (Reference is to EHB 1379 as printed March 20, 2009.)

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Senator HERSHMAN